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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,677	07/25/2005	Jan Nuyens	50304/077001	7177
21559	7590			
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110				
EXAMINER				
WANG, CHUN CHENG				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
04/30/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

Office Action Summary

Application No.

10/534,677

Applicant(s)

NUYENS ET AL.

Examiner

Chun-Cheng Wang

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-34 and 36-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-34 and 36-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the Amendment filed on 02/12/2009. Claims 1-30, 35 and 49 are cancelled. Claims 31-34 and 36-48 are now pending.

The text of those sections of Title 35, U.S. Code not included in this section can be found in a prior Office Action

Claim Rejections - 35 USC § 103

2. Claims 31-41 and 49 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kornena et al. (RU 2099974 C1, original patent with translation) in view of Wirtschaftsprüfungsgesellschaft et al. (GB 1171068).

The rejections stand as per the reasons set forth in the previous Office Action paragraphs 3-10, incorporated herein by reference.

3. Claims 42-43 and 47-48 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kornena et al. (RU 2099974 C1) in views of D'Agostino et al. (WO 99/07231).

The rejections stand as per the reasons set forth in the previous Office Action paragraphs 13-15, incorporated herein by reference.

4. Claims 44-46 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kornena et al. (RU 2099974 C1) in views of Southwick et al. (US 5985979).

The rejections stand as per the reasons set forth in the previous Office Action paragraphs 18-19, incorporated herein by reference.

Response to Arguments

5. Applicant's arguments filed 02/12/2009 have been fully considered but they are not persuasive.
6. Applicants alleged: "Kornena and GB '068 are directed to unrelated uses, and there is no reason why one skilled in the art would look to GB '068 to make improvements to the process described in Kornena"

Response: Since Kornena teaches the use of magnetic field in stabilization (e.g. emulsification) of milk product and GB '068 suggests improvements in treatment of dispersions including milk (Title) using magnetic field treatment, it flows naturally to combine the teaching from both.

7. Applicants alleged: "the method of GB '068 results in the coagulation and precipitation ... rather than mixing ..." And "one skilled in the art would not look to GB '068, which describes methods resulting in precipitation and coagulation, to modify any emulsification method."

Response: The argument is directed to treatment of beer, which is not claimed in the instant application. GB '068 teaches treatment of milk to stabilize it.

8. Applicants alleged: "'The number of recirculation, linear flow rate of the liquids and the residence time' This reasoning, however, is based on Applicants' specification".

Response: It is recognized energy input is necessary to emulsify liquid and increase the number of circulation (increase the number of cascade vessels taught by GB '068) and/or slow down flow rate will increase residence time and hence the total energy supplied.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chun-Cheng Wang whose telephone number is (571)270-5459. The examiner can normally be reached on Monday to Friday w/alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ling-Siu Choi/
Primary Examiner, Art Unit 1796

/Chun-Cheng Wang/
Examiner, Art Unit 1796

/CCW/